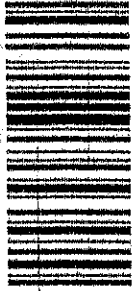


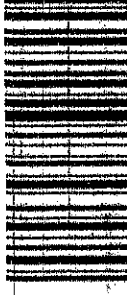
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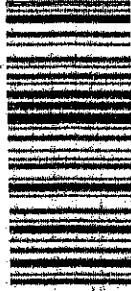
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RDW



TRACKING#

LOCATION	DATE	COURT REPORTER	DATE
SUMMONS			11/2/07
BAIL			

Michael Kelly

ASST. STATES ATT.

DATE	DOCKET ENTRIES
11/2/07	Circuit Court Docketing Date
	Recognition taken / District Court
	Recognition taken / Circuit Court
11/2/07	Appearance of <u>Michael Kelly</u> Defense
	Appearance of _____ State
	Arraigned and Pleads <u>Not Guilty</u> Election of Trial <u>12/18/08 P.H. 15 @ 12:00</u>
10/2/07	<u>Relina</u> 11/2/07 <u>Rel</u>
	<u>Issue writ to Anne Arundel Detention Ctr.</u>
	ID# <u>1174964</u>
11/2/07	<u>Issue writ to Anne Arundel County</u> <u>White</u>

CASE NO. 207255048, 49, 50

DOCKET ENTRIES

DATE

Dorog, J.

to Admin Ct.

1-9-08

3-18-08 to Admin Ct. Hicks waived

Dorog, J.

5-15-08 Do Admin Ct.

Kershaw

7-28-08 Do Admin Ct. Kershaw J.

Allison, J.

10-2-08 Case referred to Admin. Court

[REDACTED]

[REDACTED]

Howard, J.

12-17-08 Admin Court

PPW

NO. 149 CT. 1 P. 6

CCC

VERD 6 1 10y to 10y to outlandine and. unarrd.

LOC

md. sentence

FINE

W

md. sentence

PPW

NO. 150 CT. 1 P. 6

PPW

10y

CC

VERD 6 1 10y

CCC

LOC

W

COSTS

150 7 6 use of HB Crime of Violence

6 5y without parole CC

Patulent

150 0 remaining Counts recommended

1st 5yrs w/b parole.

Do to 048-10116 pps extend by state, Dorog, J.

CASE		PAGE	of
20725504, 50			
DOCKET ENTRIES		NO.	
DATE			
2/26/16	Notice of appeal filed. on denial of Motion to correct illegal sentence. Fed. Ho-se. Due to transcript 4-26-16. Assigned to Mue		
4/26/16	Journal papers forwarded to CMA via Fed. Ho tracking # 8099-2219-6339. (1) Binder, No exhibits, & no transcript.		
8-2-16	HABITAT: Court on 8/2/16 at 2867. S. number form 2015		
	Opinion: Dismissed		
	Wardens Fee: 07-29-16		
9-7-16	Petition under Post Conviction Procedure Act. Filed. 9/7/16		
9-7-17	order, Petitioner's petition for post conviction relief is hereby withdrawn Without prejudice per Judge Keller		
3-05-18	Application for leave to appeal denial of petition to correct illegal sentence filed. Due to transmit 5-07-18 Assigned to DUE		
5-7-18	Original papers forwarded to COA via Fed ex tracking # 831 4982 9040 (1) binder, (1) Enw of exhibits.		
5-23-19	Petition under Post Conviction Procedure Act. Filed. 5/23/19		

Boisey Gene n Neal

CASE NO. 207255049-050

PAGE of

DOCKET ENTRIES

NO.

12/20/19

NO. 049 CT 1 RDW

GOC

VERD 10 Years

Consecutive to  
Harris Arched Case

LOC DOC SUSP TIME

PROB

FINE COSTS w 02K07001390

NO. 050 CT 1 PLEA CHG RDW GOC 6/14/07

VERD TYPE T TIME 10 years BEGIN

Consecutive to  
Harris Arched Case

LOC DOC SUSP P/TIME PROB

Concurrent w 1049/07

FINE COSTS w

use as Handgun in China  
of witness

NO. 050 CT 7 PLEA CHG GOC 6/14/07

VERD TYPE T TIME 5k BEGIN

Concurrent to  
050

LOC DOC SUSP P/TIME PROB

FINE COSTS To Be Served without Parole  
(Person 7)

12/20/19 State's Motion for Correction of Illegal Sentence  
is Heard And's Granted" (Person 15)

12/20/19 Defendant's Motion for ~~Harris~~ <sup>Harris</sup>  
Harris Congress is heard and "Denied"

(Person 7)

08/14/20 Application for Leave to Appeal (Notice of Appeal  
filed pro-se on denial to correct illegal sentence  
and request credit for time served due to  
transmit 10/13/20. Assigned to CW.

10/16/20 original papers forwarded to Cesa via Fed-ex  
# 8461-3952-7607 @ Binder

Bailey Deal

CASE NO. 207255049 + 50-51

PAGE

of

DATE

DOCKET ENTRIES

NO.

10-28-20

Application for leave to Appeal + Notice  
to Appeal filed Pro. Sec. originally date  
stamped 08-14-20. Cassa notified

BOISEY LEVERN NEAL

DEFENDANT

AUG 14 2020

CHINA/IN THE CIRCUIT COURT  
Circuit Court For  
Baltimore City

:BALTIMORE CITY

V.

:Case No.: 207255049-51

STATE OF MARYLAND,

RESPONDENT

.....000.....

APPLICATION FOR LEAVE TO APPEAL & NOTICE OF APPEAL

Mr. or Ms. Clerk of the Circuit Court:

Please have the Office of the Court Reporter transcribe and prepare the record on behalf of BOISEY LEVERN NEAL, whose applying for an Application for Leave to Appeal & Notice of Appeal from the ruling by the Judge on July 20, 2020.

Please enter an appeal to the Court of Special Appeals of Maryland from the judgment or order entered in the above captioned case pursuant to Md. Rule 8-204.

ALLEGATIONS OF ERROR

On March 10, 2009, the Appellant was sentenced to a ten (10) year sentence which was orally pronounced to run consecutive to "both" his Anne Arundel County Circuit Court fifteen (15) year sentence and his Baltimore County Circuit Court sentence of two (2) years for Violation of Parole ("VOP"), totaling 27 years.

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October 18, 2006, but the Court did not start his sentence until June 14, 2007, the date that he was “extradited” back to Maryland.

3. The Appellant has already served thirteen (13) years on the only legal sentence that was running before the resentencing took place and that was the first sentence imposed by the Anne Arundel County Circuit Court sentence of fifteen (15) years.

4. The Court erred by not following CPA § 6-218(b)(1)(c)(d)(e)(1)(2), when the Court “resentenced” the Appellant without giving credit for time spent in custody on the record as required.

5. At the resentencing hearing, the Attorney (Gregg Fishcher) for the Appellant clearly stated on the record that “he would be filing” a “Motion for Modification” of sentence on behalf of Mr. Neal. The Public Defender Mr. Gregg Fishcher “failed” to file the Motion for Modification, which is a violation of Neals’ “Post-Sentencing Rights.”

Pursuant to Md. Rules 4-342(h) concerning credit for time spent in custody shall be credited against the Petitioner’s sentence pursuant to CPA § 6-218 and 5-201(b) giving the Petitioner credit against the Wilson County Jail in North Carolina (extradition), he is entitled to have this credit deducted against his sentence for the time the Appellant spent in the Wilson County Jail in North Carolina (extradition) prior to his trial. The Judge erred in refusing to give the Appellant his 239 days (7 months, 3 weeks, 6 days) from October 18, 2006 to June 14, 2007. *SEE Spriggs v. State*, 152 Md. App. 62, 831 A.2d 72 (2003)

At the time the Appellant’s sentence was imposed, the Judge should have announced on the record (CPA § 6-218(e)(1)(2)) that the Appellant is to receive credit for all time served prior to the imposition of sentence and failed to state the amount of the credit and on the record as required.

(e) *Credit awarded at sentencing.*- (1) The court shall award the credit required by this section at the time of sentencing.

(2) After having communicated with the parties, the court shall tell the defendant and shall state on the record the amount of the credit and the facts on which the credit is based. (2012)

~~Federal Criminal Law § 22, 29, 31 – guaranty against double jeopardy:~~

The Fifth Amendment guaranty against double jeopardy consists of three separate constitutional protections: (1) protection against a second prosecution for the same offense after acquittal; (2) protection against a second prosecution for the same offense after conviction; and (3) protection against multiple punishments for the same offense.

Federal Constitutional Law § 848 – due process – reconviction – heavier sentence:

It is a flagrant violation of the due process clause of the Fourteenth Amendment for a State trial court to follow an announced practice of imposing a heavier sentence upon every reconvicted defendant for the explicit purpose of punishing the defendant for his having succeeded in getting his original conviction set aside.



Federal Criminal Law § 32 – double jeopardy – retrial – credit for time served:

The protection against multiple punishments for the same offense, afforded by the Fifth Amendment guaranty against double jeopardy, is necessarily implicated in any consideration of the question whether, in the imposition of a sentence for the same offense after conviction upon retrial following the setting aside of the first conviction, the Constitution requires that the credit be given for punishment already endured under the original sentence.

The constitutional guaranty against multiple punishment for the same offense, provided by the double jeopardy clause of the Fifth Amendment, absolutely requires that punishment by imprisonment already exacted must be fully credited in imposing sentence upon a new conviction for the same offense upon retrial after the first conviction has been set aside, and such credit must include the time credited during service of the first sentence for good behavior.

Respectfully submitted,

*Boisey L. Neal* # 349.871  
Boisey L. Neal

18800 Roxbury Road

Hagerstown, MD. 21746

Certificate of Service

I hereby certify that on this 22<sup>th</sup> day of October 2020, a copy of the foregoing

*Notice of Appeal*

delivered to: \_\_\_\_\_ was mail / hand

Office of the State's Attorney for Baltimore City  
120 E. Baltimore Street, 9<sup>th</sup> floor  
Baltimore, Maryland 21202

and delivered to:

Circuit Court for Baltimore City  
The Clerk's office

100 N. Calvert Street, Rm. 200  
Baltimore, MD. 21202

Signature

*Bursey J. Neal*